

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 63 OF 2020

Koyana Education Society	..Petitioner
V/s.	
Grievance Committee, Shivaji University, Kolhapur.	..Respondents

Ms.Kumud A. Bhatia for the Petitioner.

Mr.Yuvraj P. Narvankar for Respondent No.1.

Ms.M.S. Bane, AGP for the Respondent No.3-State.

Mr.Aniesh S. Jadhav for Respondent No.4.

CORAM : C.V. BHADANG, J.

DATE : 08th JANUARY 2020

P.C.

1. The challenge in this petition is to the order dated 23rd December 2019 passed by the Grievance Redressal Committee of the respondent No.2-University ('Committee' for short) in complaint Nos.34/2018, 35/2018, 36/2018, 36/2018, 37/2018, 38/2018, 39/2018, 40/2018 filed by the respondent Nos.4 to 10. By impugned order the Committee has refused to allow the petitioner to be represented by an advocate in the aforesaid complaints.

2. I have heard the learned counsel for the parties. Perused record.

3. Ms.Bhatia the learned counsel for the petitioner has submitted that it is valuable right of a party to be represented by an advocate, which cannot be negated, as has been done, by the impugned order. It is submitted that the impugned order is based on the Maharashtra Universities Act, 1994 ('Old Act' for short) and does not take into consideration the provisions of the Maharashtra Public Universities Act, 2016 ('New Act' for short). It is submitted that the impugned order deserves to be set aside.

4. On behalf of the petitioners reliance is placed and the decision of this Court in the case of *Mohan Madhukar Sudame V/s. State of Maharashtra & Ors*¹.

5. The learned counsel for the respondents has submitted that notwithstanding the enactment of the New Act the statutes of the Universities as framed under the Old Act are saved and statute 334 specifically prohibits representation of a party through a representative before the Committee.

1 2012 AIR Bombay 89

6. The learned counsel for the respondent has placed reliance in the case of *Lingappa Pochanna Appelwar V/s. State of Maharashtra and Another*², *State Bank of India V/s. Jah Developers Pvt. Ltd. & Ors.*³ and the decision of this Court in the case of *Thyssen Krupp Industries India Pvt. Ltd. V/s. Suresh Maruti Chougule & Ors.*⁴.

7. I have considered the rival circumstances and the submissions made, Section 147(1)(l) of the New Act provides that notwithstanding the repeal of the Old Act, all statutes and ordinances made under the Old Act, insofar as there are not in constrain with the provisions of the New Act, shall continue to be in force and shall be deemed to have been made under the New Act, in respect of that University, until they are superseded or modified by the statutes or ordinances as the case may be, made under the new Act. It is not in dispute that there are no statutes made under the New Act. Thus, notwithstanding the repeal of the Old Act statute No.334 will continue to apply by virtue of Section 147(1)(l) of the New Act. Statue No.334 reads thus :-

² 1985-1-SCC-479

³ 2019-6-SCC-787

⁴ 2018 SCC Online Bom 311

“334. Notwithstanding anything contained in these Statutes, the concerned parties shall have to present themselves personally before the Grievance Committee for hearing at their own cost. They shall not be allowed to send any representative to plead their case before the Grievance Committee.

8. It can thus be seen that the said statute specifically provides that the parties shall not send any representative to plead their case before the Grievances Committee. As long as the said statute is therein operation (and there is and could not be any challenge to the said statute in the present petition) no exception can be taken to the impugned order refusing to allow the representation through an advocate.

9. The decision in the case of ***Mohan Sudame*** (Supra) was in respect of a representation before the college Tribunal which may not apply in the present case. In the case of ***Thyssen Krupp Industries India Pvt. Ltd.*** (Supra) one of the contentions raised before the Division Bench of this Court, on behalf of the petitioner-company, was that the Labour Court Committee an error in refusing permission to the petitioner to be represented by an advocate. Reliance in this regard was placed on Section 30 of the Advocates

Act. This Court in paragraph 45 of the judgment drew a distinction between a right of an advocate to practice law, granted by Section 29 and 30 of the Advocates Act and right to appear before the Court of law or a tribunal. The Division Bench held that the later is not guaranteed in each and every circumstances.

10. The learned counsel for the respondents has pointed out that the petitioner had in fact participated in the proceedings before the Committee and the proceedings are now at the stage of conclusion. Considering the overall circumstances, no exception can be taken to the impugned order. The petition is without any merit is accordingly dismissed, with no order as to costs.

C.V. BHADANG, J.

**Nilam
Kamble**

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